THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 9139 of 2006

Dated: 09.03.2007

Between:

Shaik Abud (Abood), S/o Shaik Ali,
Aged about 56 years, Occ: J.M., BSNL, Emp.No.13966, O/o S.D.E.
(Exil.II), Nizamabad, R/o 18-11-67/A/45/22/A. Salal Barkas, Hyderabad.

..... PETITIONER

AND

The General Manager, B.S.N.L., Telephone Department,
Nizamabad and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 9139 of 2006

Order:

This writ petition is filed seeking a Mandamus declaring the action of the 3rd respondent in not releasing the salary and other benefits of the petitioner from 26.03.2004 till today, as illegal and arbitrary, and consequently to direct the 3rd respondent to accommodate the petitioner in his previous place and release his salary and other benefits from 26.03.2004 till today.

The petitioner states that he is a permanent employee of the respondents-BSNL. He states that since he was suffering from Hepatitis disease, and on the advise of the Doctors, he was admitted into a hospital, where he took treatment as an inpatient from 31.07.2004 to 25.08.2005. At that point of time, the petitioner states that the 3rd respondent issued a memo dated 31.07.2004 stating that he was absconding from duty from 25.04.2004 onwards, and instructed him to report to duty immediately. The petitioner states that since he was bed ridden in the hospital, he could not send any communication to the respondents. He further states that immediately after his discharge from the hospital, he addressed a letter dated 26.08.2005 requesting the 3rd respondent to permit him to join duty at his previous place of posting and release his salary from 26.03.2004, but so far no action has been taken thereon by the 3rd respondent. Hence, he filed the present writ petition.

A counter affidavit is filed by the respondents *inter alia* stating that the petitioner is a habitual and chronic absentee from duties, and he absented from duties on several occasions for months together during

the years 1992, 1993 and 1994, he absented from duties from 29.12.2000 to 31.12.2000 (3 days), from 01.01.2001 for a period of 3 months 12 days, and from 13.04.2001 to 15.04.2001
(4 days). It is stated that the petitioner, without applying any leave and without intimating the Controlling Officer, unauthorisedly absented from duties continuously from 25.04.2004 to 20.04.2006 i.e., for about two years. Since the petitioner was absenting from duties without applying leave or taking prior permission, the respondents-Organisation issued a paper notification on 16.02.2005 directing the petitioner to report to duty, failing which disciplinary action would be initiated against him. As the petitioner failed to report to duty, the respondents initiated disciplinary proceedings for his unauthorised absence from duties, and therefore, the claim of the petitioner for release of salary for the period of unauthorised absence cannot be granted, and the writ petition be dismissed.

As there was no representation on behalf of the petitioner on the last occasion, the matter was directed to be listed today. Even today also, when the matter is called, none appeared for the petitioner nor is there any representation made on his behalf.

Heard the learned Standing Counsel for the respondents-BSNL and perused the counter filed by the respondents.

A perusal of the counter averments clearly shows that the petitioner is a chronic absentee from duties, and he is alleged to have absented from duties on several occasions for months together without applying leave or seeking prior permission. Since the petitioner is said to be regularly absenting from duties without applying leave or obtaining prior permission, and that lastly he had unauthorisedly absented from duties from 25.04.2004 onwards, the respondents-Organisation, issued paper notification requiring the petitioner to report to duty, and as he failed to report to duty, the respondents initiated disciplinary proceedings against the petitioner for his unauthorised absence from duties. Since

the respondents are said to have initiated disciplinary proceedings against the petitioner for his unauthorized absence, it is not proper for this Court to interfere into the matter and grant the relief prayed for in the writ petition, at this stage.

The writ petition is devoid of merit and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 09.03.2007
Nsr/Sj